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Attorneys for Defendant
AMAZON.COM, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EXPRESS MOBILE, INC.,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendants.

Case No. 3:20-cv-08339-RS

**NOTICE OF MOTION AND MOTION OF
DEFENDANT AMAZON.COM, INC. TO
STAY PENDING EX PARTE
REEXAMINATION OF THE '397 PATENT**

Date: April 29, 2021
Time: 1:30 p.m.
Ctmm: 3-17th Floor
Judge: Honorable Richard Seeborg

NOTICE OF MOTION AND MOTION TO STAY

TO THE COURT, ALL PARTIES AND ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 29, 2021, at 1:30 p.m., or as soon thereafter as the matter may be heard, in Courtroom 3, 17th Floor of the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, CA 94102, before the Honorable Richard Seeborg, Defendant Amazon.com, Inc. (“Defendant” or “Amazon”) will and hereby does move for a stay of the above-captioned action pending the completion of ongoing an *ex parte* reexamination proceeding that has been instituted on asserted U.S. Patent Nos. 6,546,397 (“the ’397 patent”). Amazon bases its motion on the arguments and facts set forth in the related motion filed by Wix.com, LTD and Wix.com, Inc. (collectively, “Wix”) in Case No. 3:19-cv-06559-RS.

Amazon and Wix are similarly situated with respect to the claims Express Mobile has asserted. First, Express Mobile asserts the ’397 patent against Amazon, and all asserted claims (claim 1 of the patent) are challenged in the *ex parte* reexamination. The results of the reexamination proceeding will likely simplify the issues in this litigation, and a stay will not unduly prejudice Express Mobile. While the Wix case is still in its early stages with no *Markman* hearing conducted, Express Mobile did not even file its complaint against Amazon until over a year after it had filed its complaint against Wix. The parties have not conducted any discovery and the Court has not set a trial date. And if the Court decides to stay the Wix case, it should stay this case as well, as coordinating the schedules of the eleven cases in the Northern District of California will save judicial resources.

Dated: March 15, 2021

FENWICK & WEST LLP

By: */s/ Todd R. Gregorian*

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I. CONCLUSION

For the reasons stated above, Amazon respectfully requests that the Court stay this case until such time as the proceedings in the *ex parte* reexamination directed to the '397 patent is complete.

Dated: March 15, 2021

FENWICK & WEST LLP

By: /s/ Todd R. Gregorian

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CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2021 the within document was filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to the attorneys of record in this case.

/s/ Todd R. Gregorian

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